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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,688	07/15/2002	Emmanuel Mastorakis	KIL01 P-424	3726

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EXAMINER

HAN, MARK K

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 02/26/2004

11

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/069,688

Applicant(s)

MASTORAKIS, EMMANUEL

Examiner

Mark K Han

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-16, 19-22, 37-42, 45-49, 57 and 58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-16, 19-22, 37-42, 45-49, 57 and 58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6 and 7.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I (claims 1-3, 7-16, 19-22, 37-42, 45-49, 57 and 58) in Paper No. 10 is acknowledged.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 8-14, 16, 20-22, 42, 45-49 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,378,240 to Curie et al. (hereinafter "Curie").

Curie discloses a locking mechanism in a syringe having a retainer part 22, first formation/lug 60, second formation/recess 58, body part 12, connector part 74, 2 flexible legs 54/56, bore 18, annular ledge 26 and connector protrusion 30/32/28. See Figures 1-4.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 7, 19, 57 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curie.

Curie discloses the legs on the hub of the syringe. Curie does not disclose expressly that the legs form a diamond shape or a V-shape. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to form the legs in either the shape of a diamond or a "V" because Applicant has not disclosed that these shapes provide an advantage, are used for a particular purpose, or solve a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the legs of Curie because they provide an efficient mechanism to retain the hub in the distal position until it comes in contact with the connector part. Therefore, it would have been an obvious matter of design choice to modify Curie to obtain the invention as specified in claim 7, 19, 57 and 58.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curie in view of U.S. Patent No. 5,342,309 to Hausser.

Curie discloses the claimed invention except for the internal ribs. Hausser discloses ribs 40. See Figures 2 and 4. It would have been obvious to one of ordinary skill in the art to modify the invention of Curie to include the ribs of Hausser in order to provide a more efficient means of engagement between the needle and the hub.

5. Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,210,371 to Shaw in view of Curie.

Shaw discloses a butterfly needle catheter 10 having a locking mechanism 50. See Figures 1-6. Shaw, however, does not disclose the locking mechanism as described in claims 40


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and 41. Curie discloses such a locking mechanism, as shown above. It would have been obvious to one of ordinary skill in the art to substitute the locking mechanism of Shaw for the locking mechanism for Curie in order to provide a means to prevent accidental infection from exposure of the contaminated needle to the user.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark K Han whose telephone number is 703-308-4543. The examiner can normally be reached on Monday to Friday, 9 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**BRIAN L. CASLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**  
Mark Han  
Patent Examiner  
Art Unit 3763

mkh  
February 17, 2004